IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/03/2004

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.40677 of 2002

K. Sanganathan .. Petitioner

-Vs-

The Union of India
rep. by Under Secretary
Ministry of Home Affairs
Lokanayak Bavan
Kahan Market
New Delhi 110 003. .. Respondent

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.S. Jayakumar
For Mr.P.S. Seetharaman

For Respondent : Mr.S. Udayakumar, ACGSC

:O R D E R

The petitioner seeks a writ of Certiorarified Mandamus calling for the records relating to the order of the respondent bearing No.52/CC/2 0/2000/ff(INA) dated 18.4.2001 and quash the same and consequently direct the respondent to sanction pension under the Swatantrata Sainik Samman Pension Scheme with arrears from the date of the original application dated 31.12.1974.

2. It is not in dispute that the petitioner is a freedom fighter and he is getting pension under the State Government Pension Scheme for freedom fighters. But, his request for the Central Government Pension under the Swatantrata Sainik Samman Pension Scheme was denied by the impugned proceedings, in spite of the certificate given by the co-prisoner, viz. Mr. Kanniah, only on the ground that the petitioner was not in prison for more than one year, as required under the Swatantrata Sainik Samman Pension Scheme, since he was in imprisonment only for seven months from May to November 1945, as evident from the certificate of the co-prisoner Mr.Kanniah, who, admittedly, had been granted INA pension for having suffered imprisonment

during the same period, viz. May to November 1945.

3. Apparent on the face of the impugned proceedings, there is no explanation for not considering the case of the petitioner for Central Government Pension under the Swatantrata Sainik Samman Pension Scheme, who is similarly placed with that of Mr.Kanniah, the co-prisoner.

4. That apart, Mr.S. Udayakumar, learned Additional Central Government Standing Counsel contends that under the new Scheme, six months imprisonment is sufficient to consider the case of freedom fighters for Central Government pension.

5. If that be so, suffice it to remit the matter to the respondent with a direction to consider the case of the petitioner under the new scheme and pass appropriate orders within six weeks from the date of receipt of a copy of this order, based on which entire arrears shall be settled within four weeks from the date of passing of the order.

The writ petition is ordered accordingly. No costs.

kpl

To

The Under Secretary
Ministry of Home Affairs
Lokanayak Bavan
Kahan Market
New Delhi 110 003.